

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 2163.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF PRESERVED STRAWBERRIES.

On or about August 15, 1912, the United States Attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 242 cases, each containing six half-gallon jars of preserved strawberries, remaining unsold in the original unbroken packages and in possession of Charles B. Malcolm & Co., at Pier 29, North River, Pennsylvania Railroad Co., New York, N. Y., alleging that the product had been shipped on or about July 13, 1912, by J. B. Malcolm & Co., Marion, N. Y., and transported through the States of Pennsylvania and New Jersey into the State of New York, and charging adulteration in violation of the Food and Drugs Act. The product was labeled: "J. B. Malcolm & Company, Marion, N. Y. R. S. Stubbs, care Morgan Line, New York City. 45493."

Adulteration of the product was alleged in the libel for the reason that it was colored in a manner whereby inferiority was concealed and contained a deleterious ingredient which might render it injurious to health, to wit, benzoate of soda.

On September 27, 1912, the Morey Mercantile Co., Denver, Colo., claimant, having consented thereto, judgment of condemnation and forfeiture was entered, and it was further ordered that the product should be released to said claimant upon payment of costs of the proceedings, amounting to \$68.70, and the execution of bond in the sum of \$1,000, in conformity with section 10 of the Act.

The case was certified to the United States Attorney because of adulteration in that, among other things, the product contained benzoate of soda, the presence of which was not declared. The United

States Attorney, nevertheless, inadvertently alleged in the libel that the product was adulterated partly by reason of the fact that it contained a deleterious ingredient which may render such article injurious to health, to wit, benzoate of soda; whereas, the contrary has been determined, after a full investigation, by the Referee Board of Consulting Scientific Experts (see Food Inspection Decision No. 104).

WILLIS L. MOORE,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *December 30, 1912.*

